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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/391,294	09/07/1999	RICHARD C. WILSON	CBC-122-C	8383

7590 05/01/2008
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EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3600

MAIL DATE	DELIVERY MODE
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05/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/391,294	Applicant(s) WILSON ET AL.	
	Examiner ROBERT J. CANFIELD	Art Unit 3600	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This Office action is in response to the amendment filed 04/18/07. Claims 1-10 are pending

2. Note that the amendments filed 09/25/06, 02/21/07 and 04/18/07 proposed amendments to claims that do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications. A supplemental paper correctly amending the reissue application is required.

Applicant is notified that any subsequent amendment to the claims must comply with 37 CFR 1.173(b). In addition, when any substantive amendment is filed in the reissue application, which amendment otherwise places the reissue application in condition for allowance, a supplemental oath/declaration will be required. See MPEP § 1414.01.

Applicant is required to file an all encompassing amendment the fully complies with 37 CFR. 1.173. Applicant should review MPEP 1453 particularly sections II, IV, and V. **ALL CHANGES ARE MADE VIS-À-VIS THE PATENT TO BE REISSUED.**

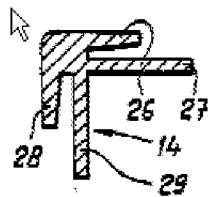
3. Applicant can disregard the PTO-948 Notice mailed 03/21/00 as the drawings are copies of the patent drawings and no changes have been made.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: the term "detent" now used in at least claim 10 is not found in the specification.

5. Claims 1, 2, 4-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,964,252 to Guliker.

Member 14 of Guliker has all of the claimed structural features and inherently has insulating qualities. As the member has all of the claimed structure of applicants member it is inherently capable of being used with a corner post.

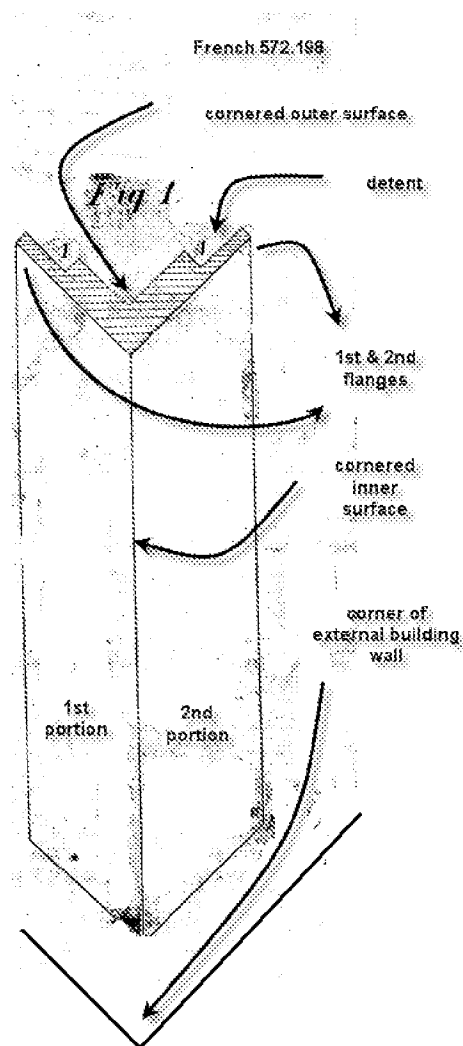


6. Claims 1, 2, 4-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent 572.198.

The French patent provides a single member formed of material which is homogeneous/uniform through as illustrated in the cross section. The first and second portions are angularly disposed from each other defining a cornered inner surface and a cornered outer surface substantially parallel to the cornered inner surface. First and second flanges extend continuously along the entire length of the portions and extend continuously from the inner surface of the

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portions and form a detent with the outer surface. The material of the member inherently would have insulating qualities. The member is capable of being used with a corner post at a corner of an external wall of a building and has lengths capable of corresponding to the length of a corner of a building.



7. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 572.198.

The French patent provides all of the claimed structure but fails to provide the claimed material. The member of the French patent appears to be made from a cement board type product. It would have been obvious at the time of the invention to one having ordinary skill in the art that the member of the French patent could have been made out of material such as molded or extruded polystyrene foam as polystyrene foam is recognized as an equivalent building material to materials such as wood and cement board for trim type building products. It would have been an obvious material choice for its inherently material properties such as its high insulating value and there would have been no unexpected or unpredictable results achieved by making a corner member having the structure of the French patent out of a polystyrene material.

8. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,089,866 to Wallentin.

Wallentin provides a corner member 13 formed of a cementitious or other suitable plastic material. The member of Wallentin has all of the structure of the instant claims except that it is made of plural sections connected end to end by cut away portions 18 and extensions 19.

It would have been obvious to one having ordinary skill in the art at the time of the invention that the corner member 13 of Wallentin could have been made from one single continuous piece rather than plural pieces joined end to end. It would have been nothing more than making separate pieces integral without any unexpected or unpredictable result.

It also would have been obvious that the corner members 13 of Wallentin could have been butt joined end to end rather joined by the use of cut away 18 and extension 19. A butt joint would have been recognized as a known alternative joint and to have used a butt joint rather than the joint taught would not have resulted in any unexpected or unpredictable results.

When modified to be a continuous piece or separate pieces butt joined the corner member flanges would extend the entire length of the corner member.

Polystyrene would have been an obvious material choice for the corner member of Wallentin for its inherent material properties such as high insulating properties. Further, Wallentin suggests the member may be made of suitable plastic materials.

9. Applicant's arguments filed 04/18/07 with respect to French patent 572198 have been fully considered but they are not persuasive in view of the interpretation of the reference noted above. There is nothing in the claims preventing interpreting the side with the flanges as the inner surface.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Only one page of French Patent 572.198 was found in the record. A complete copy of the patent is provided.

11. Any inquiry concerning this communication should be directed to ROBERT J. CANFIELD at telephone number (571)272-6840.

Robert J Canfield
SPE
Art Unit 3635

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635